



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**BILLS**

**Navigation Bill 2012, Navigation (Consequential  
Amendments) Bill 2012, Marine Safety  
(Domestic Commercial Vessel) National  
Law Bill 2012, Marine Safety (Domestic  
Commercial Vessel) National Law  
(Consequential Amendments) Bill 2012**

**Second Reading**

**SPEECH**

**Tuesday, 19 June 2012**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

**Date** Tuesday, 19 June 2012  
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**Questioner**  
**Speaker** Truss, Warren, MP

**Source** House  
**Proof** No  
**Responder**  
**Question No.**

**Mr TRUSS** (Wide Bay—Leader of The Nationals) (16:50): I rise to speak on the Navigation Bill 2012 and its consequential amendments bill, which update and modernise the Navigation Act 1912. Even though they are not directly connected, this bill will be debated together with the Marine Safety (Domestic Commercial Vessel) National Law Bill 2012 and its consequential amendments bill, which provide the legislative framework for the implementation of the national marine safety regulator.

Let me begin by discussing the Navigation Bill 2012. The original Navigation Act from 1912 is regarded as one of the major achievements of Prime Minister Andrew Fisher, who was, I might add, the first member for my electorate of Wide Bay. It certainly was a big achievement for the relatively new Federation of Australia at the time. In 1912, when the bill was debated in the House, the minister at the time, Frank Tudor, noted that not only was it the longest bill ever submitted to the decade-old Australian parliament but it was practically the longest bill on maritime activity and shipping introduced to any parliament. If you look at its replacement bill, while it has some volume it is tiny compared with much of the legislation that comes into the parliament these days. It does not compare too honourably to the Fair Work Bill, which was quite thick, or taxation law et cetera. Those sorts of things obviously take a lot of space these days. But, in its day in 1912, the Navigation Act was the longest piece of legislation that had been introduced into the parliament. The 1912 bill was a long time in the making. It was originally drafted in 1903. It was read for the first time in 1904, before being withdrawn, and then a royal commission was established to investigate how shipping in Australia should be regulated. In 1905 a conference of colonial parliaments was proposed and in 1907 that conference was finally held. A bill was introduced in 1907 and again in 1908 and again in 1910, but it was not until 1912 that Australia finally got there. After lengthy debate and comprehensive amendments, the Navigation Act 1912 was passed. It took nine years from the drafting stage until the bill passed the parliament, but it has to be acknowledged that there were in fact eight changes of government during that period. I guess that is unthinkable in modern political terms. But it is also perhaps significant that this was the era when the *Titanic* sank and it would undoubtedly have brought considerable community interest into making sure that navigation and maritime law in our country were appropriate to meet the needs of that time.

The minister should be pleased that the rewrite of the act has only taken around three years to come together—about a third of the time it took the original act to be drafted and passed. In the minister's second reading speech from 1912, he stated that the bill largely followed the United Kingdom's Merchant Shipping Act. However, the minister noted the large number of amendments to the UK act—81 in the 50-odd years between 1840 and 1894—which resulted in it being extremely difficult at the end of that time to find out exactly what the law was, unless members of the House of Commons or those interested in the act knew exactly what amendments had been made. Now we face the same situation, where the Navigation Act of 1912 has been amended so many times that, after 100 years, it is indeed in need of an update.

The Navigation Act 1912 is Australia's primary piece of legislation for regulating ship and seafarer safety, shipboard aspects of protection of the marine environment, and employment conditions for Australian seafarers. It gives effect to Australia's port state control responsibilities and implements a range of international conventions covering matters such as the safety of life at sea, training and certification of seafarers, prevention of collisions at sea, watertight integrity and reserve buoyancy of ships, and regulations to determine gross and net tonnage of ships.

The Navigation Bill 2012 will rewrite the Navigation Act 1912 with modern language to reflect contemporary conditions and practices in the shipping industry. It will remove a number of unnecessary and outdated provisions and enhance ship safety and protection of the marine environment. It will also introduce greater flexibility to allow regulation to remain contemporary with the national and international standards as they develop over time. The bill also encompasses the Lighthouses Act 1911, one of Australia's oldest laws, which will be repealed if this bill is enacted.

The minister in his second reading speech has mentioned a number of the archaic provisions contained in the Navigation Act 1912, such as those which make it an offence to take a lunatic to sea without telling the master, and provisions exempting the master of a ship from prosecution if he shoots a seafarer. Additionally, the rewrite of the Navigation Act 1912 will give effect to the International Labour Organisation's Maritime Labour Convention, which was passed through the parliament late last year, as the bill incorporates the conditions of the Maritime Labour Convention. I understand that industry is supportive of the rewrite of the Navigation Act 1912 and acknowledges that the current act is out of date and does not accord with modern industry practices.

I acknowledge that Shipping Australia has raised concerns about the harshness of the penalties imposed by the bill in their submission to the consultation process. The bill does establish a number of civil and criminal penalty provisions. In some cases, lengthy prison sentences can be imposed. However, I note that the explanatory memorandum of the bill states that the penalties for offences in the bill are intended to reinforce the deterrent effect of the bill and give courts the discretion to respond meaningfully and proportionally to breaches. Breaches of the Navigation Act can have serious consequences for the environment, the community and, of course, the lives of seafarers.

The coalition will not oppose the Navigation Bill 2012. We recognise that the efforts to modernise, streamline and clarify existing provisions to ensure that it reflects contemporary maritime industry practice should be supported.

I will now turn to the Marine Safety (Domestic Commercial Vessel) National Law Bill 2012. As I mentioned earlier, this bill, together with its consequential amendments bill, introduces a new national law for maritime safety that will commence from 1 January 2013 and establishes the Australian Maritime Safety Authority, AMSA, as the national maritime regulator to provide for the consistent regulation of domestic shipping. The bill establishes a system of vessel identification and the issue of certificates in relation to vessel identification, vessel survey, the commercial operation of vessels and seafarer competency. The bill also creates an offence where a certificate is required and not held or held and not complied with, and establishes general safety obligations on persons involved in the operation of a commercial vessel, or who may use the vessel as a conveyance, to take reasonable care for their own safety and the safety of others. It also establishes a system within which to conduct compliance and enforcement activities and provides for the consistent application of nationally agreed standards across Australia.

The principle of the establishment of a national maritime safety regulator has been agreed to by the Council of Australian Governments, and the specifics of the regulations contained in this bill were agreed to by the Standing Council on Transport and Infrastructure, comprised of transport ministers from all jurisdictions, last month. I trust that the states and territories will enact appropriate legislation in their own jurisdictions as necessary to fully implement the national maritime safety regulator.

The national maritime safety regulator is one part of the three national transport regulators that are presently being established. The South Australian government has recently passed laws establishing the National Rail Safety Regulator, and the new Queensland government is presently considering legislation to implement the National Heavy Vehicle Regulator. Harmonisation of laws in these three areas will, it has been estimated, provide productivity benefits of \$30 billion over the next 20 years as the 23 current regulators will be consolidated into three national regulators. Currently there are eight different marine safety regulators in Australia, each implementing their own rules and regulations, and there are, in fact, many instances where those rules and regulations vary. People find that a vessel that can operate legally in one state cannot, when it crosses the borders, meet the new state's requirements. The bills will mean that Australia will have one national maritime safety law replacing 50 pieces of state and federal legislation.

Under the bills AMSA will be established as the national regulator and existing state and territory regulators will deliver national law functions under the delegation of AMSA. State and territory agencies will be responsible for the effective day-to-day operation of the national law. These jurisdictions will retain responsibility for the regulation of waterways, the management of ports and associated issues such as classifying waters, setting speed limits and regulating alcohol consumption. The bills will mean that companies that operate nationally will not have to comply with multiple safety regulatory regimes. Designers and builders will have to comply with one certification system rather than applying for recertification in each jurisdiction. The national law will cut through red tape for business involved in the industry.

In addition to the national law being supported by all jurisdictions, extensive industry consultation has been undertaken, and I understand that, broadly speaking, industry is supportive of a national maritime safety regulator. I note that some concerns have been raised by smaller groups and I trust that the department, AMSA, and the minister will work constructively with these organisations to ensure that a positive outcome is reached, particularly as regulations are prepared to support this legislation. It is important when considering national law in such a complex area that we get it right to prevent any unintended consequences that could have a drastic impact on these industries.

I understand that in May the scuba clubs wrote to the minister outlining their concerns about some aspects of the national law, and at the time the minister's office advised that the way dive clubs will be treated under legislation will be decided after further consultation. Generally, community group vessels will not be subject to regulation under the national law. Only those community group vessels used for a commercial purpose or to undertake commercial activities will be regulated under the national law. The minister has informed me that these purposes or activities will be articulated in the regulations and stakeholders will be consulted on the development of the regulations, which I understand will be starting as soon as the laws have been passed.

To the extent that dive clubs are community groups the same rules will apply as outlined previously. In other words, it is intended that through the regulations the dive club vessels operated in connection with commercial activity—for example, where nonmembers pay a fee—or for commercial purposes will be subject to national law standards. However, the regulatory treatment will be tailored to the risks involved in the activities. Activities assessed as low risk will be subject to low-level regulations. These vessels are, of course, now regulated by the states, and the minister has assured me that it is anticipated that the level of regulation is unlikely to be significantly different under the national law to what applies at the current state level and, hopefully, in some cases it may be less. The legislation is due to take effect in six months. I remind the minister of his commitment to ensure that the concerns that have been raised are addressed promptly and in time for the legislation to be effectively implemented.

In conclusion, the coalition will be supporting the Marine Safety (Domestic Commercial Vessel) National Law Bill 2012. The bill has the support of all state and territory governments and has received broad industry support. The bill will reduce industry red tape and will harmonise the contradictory laws which are currently in place by replacing eight regulators and 50 acts with one national law. This bill has been under preparation now for quite some time. It has taken some years for it to go through the COAG process, but we know that that is a somewhat slow-moving process. I am pleased that in this area, where there has been so much overlapping regulation and so much duplication, this legislation is a significant step forward to helping achieve uniformity of regulation across the nation.